IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

MONDAY, THE 6TH AUGUST 2007 / 15TH SRAVANA 1929

RPFC.No. 325 of 2007()

MC.138/2006 of FAMILY COURT, THIRUVALLA

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: REVN. PETITIONER/RESPONDENT

SIVASANKARA PILLAI, AGED 40 YEARS,
S/O. NARAYANA PILLAI, VENAD HOUSE,
MANTHUKA MURI, KULANADA VILLAGE,
PATHANAMTHITTA DISTRICT.

BY ADV. SRI.JOSEPH GEORGE

RESPONDENTS: PETITIONERS

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1. DEEPA S., AGED 28, D/O. SANTHAMMA,
DEEPALAYAM, MANTHUKA, KULANADA VILLAGE,
PATHANAMTHITTA DISTRICT.

2. GOPIKA S.PILLAI, (MINOR), AGED 1,
REPRESENTED BY MOTHER AND 1ST PETITIONER,
DEEPA S., DEEPALAYAM, MANTHUKA, KULANADA VILLAGE,
PATHANAMTHITTA DISTRICT.

BY

THIS REV.PETITION(FAMILY COURT) HAVING COME UP FOR ADMISSION ON 06/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

R.P.(F.C.) No. 325 OF 2007

Dated this the 6th day of August, 2007

O R D E R

The revision petitioner, who is the husband of the 1st respondent and the father of the 2nd respondent, was the counter petitioner in M.C.No.138/06 filed by the respondents before the Family Court, Thiruvalla claiming monthly maintenance at the rate of Rs.2,000/- (Rupees two thousand only) and Rs.1,500/- (Rupees one thousand five hundred only) respectively.

2. The facts leading to the impugned order can be summarized as follows:-

The marriage between the revision petitioner and the 1st respondent was solemnized on 28.3.2004 at Sree Dharmasastha Temple, Karakkat, as per the Hindu religious rites and ceremonies. The 2nd respondent herein was born in that wedlock on 4.1.2005. The relationship between the spouses became strained and the wife left the matrimonial home on 25.3.06.

3. According to the wife, the husband started ill treating her after consuming liquor to which he had become an addict and it was unable to tolerate the ill treatment that she left the

matrimonial home in March, 2006. Eventhough the revision petitioner denied the alleged ill treatment and consumption of liquor, the Judge of the Family Court was not inclined to accept the said version. The wife was, therefore, rightly held entitled to separate maintenance.

4. On the question of the income of the revision petitioner, it was found that the revision petitioner while working at Delhi lost two of his fingers in an accident and he was terminated from service but even after that he was able to secure employment in a petrol pump. As CPW1 he admitted that he got employment in a petrol pump but would say that his services were terminated for which then was no evidence forthcoming. It was relying on his admission, that while employed in the petrol pump he was getting a monthly income of Rs.4,000/- (Rupees four thousand only) that the Family Court directed him to pay monthly maintenance at the rate of Rs.700/- (Rupees seven hundred only) each to his wife and minor child.

5. Eventhough the learned counsel for the revision petitioner assailed the above findings, those findings have been recorded after an evaluation of the oral evidence. The trial judge

who had the unique advantage of seeing the witnesses and assessing their credibility has chosen to accept the testimony of PWs 1 and 2 in preference to the testimony of the revision petitioner examined as CPW1. The finding regarding the income of the revision petitioner is also a finding of fact. The quantum of maintenance awarded is also very reasonable if not on the lower side. I, therefore, do not find any good ground to interfere with the order passed by the Family Court. This revision is accordingly dismissed. The revision petitioner is given three months time to pay or deposit the arrears of maintenance.

(V. RAMKUMAR, JUDGE)

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